

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

GERALD HAYDEN,

Plaintiff,

v.

INTERNATIONAL BUSINESS  
MACHINES CORPORATION, PABLO  
SUAREZ, and SHANKER  
RAMAMURTHY,

Defendants.

Case No. 7:21-CV-02485-VB-JCM

**DECLARATION OF STUART W. YOTHERS, ESQ.,  
IN SUPPORT OF DEFENDANTS' OPPOSITION TO  
PLAINTIFF'S MOTION FOR A PROTECTIVE ORDER (DKT. 113)**

I, STUART W. YOTHERS, an attorney admitted to practice before this Court in the above-captioned matter, and not a party to the matter, affirm the following under penalty of perjury:

1. I am a partner at Jones Day and counsel for Defendants International Business Machines Corporation, Pablo Suarez, and Shanker Ramamurthy. I submit this declaration in support of Defendants' Opposition to Plaintiff's Motion for a Protective Order (Dkt. 113).

2. Attached as **Exhibit 1** ("Defs.' Ex. 1") is a true and correct copy of an August 17, 2022 letter from Stuart Yothers to Julio Gomez. (Provisionally filed under seal pursuant to the Court's April 5, 2023 Order (Dkt. 116).)

3. Attached as **Exhibit 2** ("Defs.' Ex. 2") is a true and correct copy of a November 11, 2022 letter from Stuart Yothers to Julio Gomez. (Provisionally filed under seal pursuant to

the Court's April 5, 2023 Order (Dkt. 116).)

4. Attached as **Exhibit 3** ("Defs.' Ex. 3") is a true and correct copy of a January 23, 2023 letter from Colleen Ryan to Robert Magnanini. (Provisionally filed under seal pursuant to the Court's April 5, 2023 Order (Dkt. 116).)

5. Attached as **Exhibit 4** ("Defs.' Ex. 4") is a true and correct copy of excerpted pages 1, 19, 113–120, 126, 149–152, 302–304 from the transcript of the May 12, 2022 deposition of Plaintiff Gerald Hayden.

6. Attached as **Exhibit 5** ("Defs.' Ex. 5") is a true and correct copy of Plaintiff's Supplemental Response to Defendants' Second Set of Interrogatories, dated June 21, 2022.

7. Attached as **Exhibit 6** ("Defs.' Ex. 6") is a true and correct copy of a document produced by Plaintiff at Bates number GH\_00034306. (Provisionally filed under seal pursuant to the Court's April 5, 2023 Order (Dkt. 116).)

8. Attached as **Exhibit 7** ("Defs.' Ex. 7") is a true and correct copy of a document produced by Plaintiff at Bates numbers GH\_00027344–GH\_00027346. (Provisionally filed under seal pursuant to the Court's April 5, 2023 Order (Dkt. 116).)

9. Attached as **Exhibit 8** ("Defs.' Ex. 8") is a true and correct copy of the November 2, 2015 Agreement Regarding Confidential Information, Intellectual Property, and Other Matters executed by Gerald Hayden, produced by Plaintiff at Bates numbers GH\_00013549–GH\_00013550.

10. Attached as **Exhibit 9** ("Defs.' Ex. 9") is a true and correct copy of a document produced by Plaintiff at Bates number GH\_00027539. (Provisionally filed under seal pursuant to the Court's April 5, 2023 Order (Dkt. 116).)

11. Attached as **Exhibit 10** (“Defs.’ Ex. 10”) is a true and correct copy of a document produced by Plaintiff at Bates number GH\_00027706. (Provisionally filed under seal pursuant to the Court’s April 5, 2023 Order (Dkt. 116).)

12. Attached as **Exhibit 11** (“Defs.’ Ex. 11”) is a true and correct copy of Plaintiff’s Responses to Defendants’ Third Set of Interrogatories, dated April 5, 2023.

13. Attached as **Exhibit 12** (“Defs.’ Ex. 12”) is a true and correct copy of Plaintiff’s Initial Disclosures, dated November 10, 2021.

14. Attached as **Exhibit 13** (“Defs.’ Ex. 13”) is a true and correct copy of a March 16, 2017 email from Gerald Hayden to Pablo Suarez and copying Juan Powell, including prior emails, produced by Defendants at Bates numbers IBM-HAYDEN-000075002–00075004.

15. Attached as **Exhibit 14** (“Defs.’ Ex. 14”) is a true and correct copy of a document produced by Plaintiff at Bates numbers GH\_00027684–GH\_00027685. (Provisionally filed under seal pursuant to the Court’s April 5, 2023 Order (Dkt. 116).)

16. Attached as **Exhibit 15** (“Defs’. Ex. 15”) is a true and correct copy of a March 6, 2023 letter from Robert Magnanini to Colleen Ryan.

17. Attached as **Exhibit 16** (“Defs.’ Ex. 16”) is a true and correct copy of a December 27, 2018 email from Gerald Hayden to Diane Gherson, produced by Defendants at Bates numbers IBM-HAYDEN-000208780–IBM-HAYDEN-000208781.

18. Attached as **Exhibit 17** (“Defs.’ Ex. 17”) is a true and correct copy of an attachment to a December 27, 2018 email from Gerald Hayden to Diane Gherson (Defs.’ Ex. 16), produced by Defendants at Bates numbers IBM-HAYDEN-000208782–IBM-HAYDEN-000208788.

19. Attached as **Exhibit 18** (“Defs.’ Ex. 18”) is a true and correct copy of an April 20, 2018 email from Gerald Hayden to David Vonnahme, and copying Gotham Pasupuleti, including prior emails, produced by Defendants at Bates numbers IBM-HAYDEN-000184821–IBM-HAYDEN-000184827.

20. Attached as **Exhibit 19** (“Defs.’ Ex. 19”) is a true and correct copy of an attachment to an April 20, 2018 email from Gerald Hayden to David Vonnahme (Defs.’ Ex. 18), produced by Defendants at Bates numbers IBM-HAYDEN-000184828–IBM-HAYDEN-000184832.

21. Attached as **Exhibit 20** (“Defs.’ Ex. 20”) is a true and correct copy of a document produced by Plaintiff at Bates numbers GH\_00027682–GH\_00027683. (Provisionally filed under seal pursuant to the Court’s April 5, 2023 Order (Dkt. 116).)

22. Attached as **Exhibit 21** (“Defs.’ Ex. 21”) is a true and correct copy of a document produced by Plaintiff at Bates number GH\_00027423. (Provisionally filed under seal pursuant to the Court’s April 5, 2023 Order (Dkt. 116).)

23. Attached as **Exhibit 22** (“Defs.’ Ex. 22”) is a true and correct copy of a document produced by Plaintiff at Bates number GH\_00027518. (Provisionally filed under seal pursuant to the Court’s April 5, 2023 Order (Dkt. 116).)

24. Attached as **Exhibit 23** (“Defs.’ Ex. 23”) is a true and correct copy of a document produced by Plaintiff at Bates number GH\_00027519. (Provisionally filed under seal pursuant to the Court’s April 5, 2023 Order (Dkt. 116).)

25. Attached as **Exhibit 24** (“Defs.’ Ex. 24”) is a true and correct copy of a document produced by Plaintiff at Bates number GH\_00027520. (Provisionally filed under seal pursuant to

the Court's April 5, 2023 Order (Dkt. 116).)

26. Attached as **Exhibit 25** ("Defs.' Ex. 25") is a true and correct copy of a document produced by Plaintiff at Bates number GH\_00027521. (Provisionally filed under seal pursuant to the Court's April 5, 2023 Order (Dkt. 116).)

27. Attached as **Exhibit 26** ("Defs.' Ex. 26") is a true and correct copy of a document produced by Plaintiff at Bates numbers GH\_00029791–GH\_00029793. (Provisionally filed under seal pursuant to the Court's April 5, 2023 Order (Dkt. 116).)

Dated: April 12, 2023  
New York, New York

Respectfully submitted,

/s/ Stuart W. Yothers  
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